

WC DOCKET NO. 05-196
SUBSCRIBER NOTIFICATION REPORT
OCTOBER 25, 2005
OF US LEC ACQUISITION CO.

By: Terry J. Romine, Esq.
Deputy General Counsel – Regulatory
US LEC Corp.
6801 Morrison Boulevard
Charlotte, NC 28211
Direct Dial: (704) 319-1119
Facsimile: (704) 602-1119
E-mail: tromine@uslec.com

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I. Introduction

On August 10, 2005, US LEC Acquisition Co. ("US LEC") submitted a Subscriber Notification Report to the Federal Communications Commission ("FCC") and provided information on the measures it had taken, as of July 29, 2005, to advise each of its existing subscribers of the lack of E9-1-1 capability and to distribute warning labels to each existing subscriber instructing the subscriber to place the labels on or near the equipment used to make VoiceEclipse^{TM1} calls ("August 10 Report"). On September 1, 2005 and September 22, 2005, pursuant to the Public Notice issued August 26, 2005 by the Enforcement Bureau of the FCC,² US LEC submitted its follow up reports to the August 10 Report on US LEC's compliance efforts and asked the FCC to refrain from enforcement of the requirement that US LEC obtain affirmative acknowledgements from its subscribers (47 C.F.R. § 9.5(e)(2)) until September 28, 2005. On September 27, 2005, the Enforcement Bureau of the FCC issued an additional Public Notice³ in which it advised Interconnected Voice over Internet Protocol ("VoIP") Service Providers that, to the extent that a VoIP provider had not received acknowledgements from at least 90% of its subscriber, the Bureau would forbear from enforcement action on the acknowledgement requirement until October 31, 2005, provided that the VoIP providers submitted a status report by October 25, 2005. As directed by the Public Notice, US LEC submits the requested status report.

II. Description of Action to Achieve Acknowledgement from 100% of Existing Subscribers as to the Availability of E911 Service Using VoiceEclipseTM

On September 22, 2005, US LEC had obtained affirmative acknowledgement of the lack of availability of E911 Service using VoiceEclipseTM from sixty-six percent (66%) of its existing subscribers as of July 28, 2005. Any person

¹ VoiceEclipseTM is the interconnected Voice over Internet Protocol ("VoIP") service provided by US LEC Acquisition Co. ("US LEC") to residential and business customers.

² *Public Notice, Enforcement Bureau Provides Further Guidance to Interconnected Voice Over Internet Protocol Service Providers Concerning Enforcement of Subscriber Acknowledgement Requirement*, WC Docket No. 04-36, WC Docket No. 05-196 (DA 05-2358, Released: August 26, 2005) ("Public Notice").

³ *Public Notice, Enforcement Bureau Provides Further Guidance to Interconnected Voice Over Internet Protocol Service Providers Concerning Enforcement of Subscriber Acknowledgement Requirement*, WC Docket No. 04-36, WC Docket No. 05-196 (DA 05-2530, Released: September 27, 2005) ("September 27 Public Notice").

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subscribing after July 28, 2005 had to affirmatively acknowledge the E911 disclosure or the person could not complete a subscription to the VoiceEclipse™ service, and, therefore, 100% of the new subscribers have submitted affirmative acknowledgements to US LEC.

As of September 22, 2005, US LEC initiated a campaign in which each subscriber that had not returned an affirmative acknowledgement was called and reminded that the subscriber was required to return an affirmative acknowledgement no later than September 28, 2005 or the subscriber's VoiceEclipse™ service would be disabled, except for the ability to call US LEC's Network Operating Center ("NOC"). With the issuance of the September 27 Public Notice, US LEC carried through with the disablement of the "delinquent" subscribers' service, and left the subscriber with only the ability to call the NOC.

II. Quantification of How Many of US LEC's Subscribers (existing as of July 28, 2005), on a Percentage Basis, Have Submitted an Affirmative Acknowledgement as of October 25, 2005

As of October 24, 2005, at 2 P.M. CDT, 85.4% of the subscribers existing as of July 28, 2005 had submitted affirmative acknowledgements to US LEC.

At 2 P.M. CDT, on October 24, 2005, the VoiceEclipse™ service of the existing subscribers that failed to submit affirmative acknowledgements to US LEC was completely disassociated to prevent the subscriber from using the VoiceEclipse™ service, including the ability to call the NOC.

III. Reasons for a Percentage Less than 100%

As discussed in Section I, US LEC called each non-compliant subscriber beginning September 22, 2005, but either the subscriber did not answer the call, a voice message was left, and the subscriber took no action or the subscriber answered the call and agreed to provide the affirmative acknowledgement, but took no action. US LEC believes that the subscribers that failed to submit the affirmative acknowledgements do not use the VoiceEclipse™ service as their primary phone line.

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